REMARKS

Applicants have carefully considered the Office Action dated March 3, 2009 and the references cited therein. Applicants respectfully request reexamination and reconsideration of the application.

Drawing Correction

Applicants propose the amendment to Figure 2 to eliminate a duplicate of reference number. No new matter is believed added to the application by way of the proposed amendments to the figure as set forth herein.

Status of the Claims

Claims 1-22 are pending in the application.

Claims 11, 17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Claims 1-3, 5, 7-10 and 16-22 are rejected under 35 USC 103(a) as being unpatentable over Finn (WO 01/11495) in view of Mitton (US 6,355,869) and further in view of Nishimura et al. (Prosc ISMIR, 2001 publication).

Claim 4 is rejected under USC 103(a) as being unpatentable over Finn in view of Mitton, and further in view of Nishimura et al., and further in view of Weare (US 2003/0045954).

Claims 6 and 11-14 are rejected under USC 103(a) as being unpatentable over Finn in view of Mitton, and further in view of Nishimura et al., and further in view of Balnaves (US 6,954,894).

Claim 15 is rejected under USC 103(a) as being unpatentable over Finn in view of Mitton, and further in view of Nishimura et al., and further in view of Williams (US 6,308,154).

Claim Rejections - 35 USC 112

Claims 11, 17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants and their attorney assume the examiner means claims "1, 17 and 21" in setting forth the above rejection, instead of 11, 17 and 21. Claims 1, 17 and 21 have been amended to eliminate the language indicated as indefinite. Accordingly, the rejection under 35 U.S.C. 112 is believed overcome.

Claim Rejections – 35 USC 103(a)

Prior to addressing the examiner's rejections, applicants respectfully request that the examiner consider the following remarks. In the subject application, applicants acknowledge the existence of the various systems for augmenting an audio signal with a video signal (10/540,315, paragraphs 2 - 4), but also note that such systems are generally unable to automatically augment an input ad-hoc audio signal with a video story sequence which depends on, and follows the semantic content of the audio signal (10/540,315, paragraph 5). Utilizing the system disclosed by applicants, musical features, such as key, key changes, and tempo, are extracted from the audio input signal and provided to the computer which then associates the musical features to the dramatic parameters (10/540,315, paragraph 58). A dramatic parameter list characterizing the music is generated and a story template is selected and used in conjunction with the dramatic parameters to obtain appropriate media fragments (10/540,315; figure 6 and paragraph 58). The disclosed process matches media fragments with an audio signal by finding a template with similar dramatic parameters. The media fragments are then rendered to the consumer along with their music selection. Hence, a consumer undergoes a story experience in tandem with, and informed by, the selected music (10/540,315, paragraph 15). As such, by using the disclosed system and techniques, it becomes possible to generate, obtain and render a story to a consumer, the story being based on a consumer's music selection (10/540,315, paragraph 13).

Claims 1-3, 5, 7-10 and 16-22 are rejected under 35 USC 103(a) as being unpatentable over Finn (WO 01/11495) in view of Mitton (US 6,355,869) and further in view of Nishimura et al. (Prosc ISMIR, 2001 publication). Applicants traverse such rejection of claims on the grounds that the Examiner has failed to create a *prima facie* case of obviousness. In accordance with MPEP §2143.03, to establish a *prima facie* case of obviousness 1) the prior art reference (or references when combined) must teach or suggest *all* of the claim limitations; 2) there must be some suggestion or motivation to modify a reference or combine references; and 3) there must be a reasonable expectation of success. Applicants respectfully assert that the combined teaching of the cited references do not teach disclose or suggest all of the claim limitations.

Claim 1 currently recites "generating a time ordered table of *dramatic parameters* according to the extracted features" (claim 1, lines 4-5; *emphasis* added). Claims 17 and 21 recites similar language (claim 17, lines 4-5; claim 21, lines 5-6). In setting forth the rejection, the examiner alleges that Finn discloses generating a time-based table of dramatic parameters according to the extracted features. Applicants respectfully disagree with the examiner's analogy and interpretation of the recited claim language. Applicants respectfully assert that Finn does not teach, disclose or suggest dramatic parameters as the term has been claimed and defined in the subject specification. The dramatic parameters disclosed in the subject application are different than the musical features extracted from the input audio signal. The dramatic parameters advantageously represent features of a story such as mood, pace, incidents and so on and are also mapped onto extracted features of the audio signal such as key and tempo (10/540,315, paragraph 10). FIG. 2 shows an example table 200 which illustrates a non-exhaustive relationship of extracted musical features 204 (MF) with corresponding predetermined and defined dramatic parameters 206 (DP) (10/540,315, paragraph 35). Figures 3, illustrates an example of a time ordered table including dramatic parameters 306 which creates a high level overview interpretation of the underlying audio track. As such, the dynamic parameters are not measurable physical characteristics of or derived from the audio input signal, such as the pitch and tempo musical features extracted in

both Finn and Mitton. Conversely, the claimed dramatic parameters are subjective and aesthetic characteristics associated with an extracted musical feature, but not necessarily algorithmically derived therefrom.

Finn discloses a system where a user can whistle a melody into a microphone, and the system will find a match amongst a database of music files. Mitton discloses a method for obtaining a musical score from a musical recording. Both Finn and Mitton disclose the extraction of musical features. Applicants respectfully assert that neither Finn nor Mitton disclose generating a time ordered table of dramatic parameters. For example, the Examiner states that Finn discloses a time based table of dramatic parameters (paragraphs 3 and 4 of page 6 of Finn). This passage, however, just describes the generation of a frequency time graph derived from an audio input signal. Such a frequency time graph is a known way of interpreting an audio signal, and is dissimilar to the "dramatic parameters" recited in the claims and disclosed in the subject specification.

The Examiner also alleges that Mitton discloses a time ordered table (column 5 lines 12 to 22 and Figure 33 of Mitton). However, Mitton does not disclose a time ordered table of dramatic parameters. Instead, in Mitton, Fig. 33 is described as a list of the same 12 pseudo wave files shown in Fig. 32 (Mitton, col. 9, lines 60-61), the wave files being described as being a series of pitch coefficients which are musical feature dissimilar to the "dramatic parameters" recited in the claims and disclosed in the subject specification. Nishimura is not relied upon for disclosing dramatic parameters, and accordingly, does not supply the teachings missing from both Finn and Mitton.

Accordingly, applicants respectfully assert that the combined teachings of Finn, Mitton and Nishimura do not teach disclose or suggest "generating a time ordered table of dramatic parameters according to the extracted features" as previously recited in claims 1, 17 and 21. Accordingly, applicants respectfully assert that claims 1, 17 and 21, as well as their respective dependent claims, as applicable, distinguish over the combined teachings of Finn, Mitton and Nishimura.

Notwithstanding the foregoing, Claim 1 has been amended to further recite "outputting said media fragments *in tandem with said audio signal*" (claim 1, line 1;

emphasis added). Claims 17 and 21 been amended to include a similar limitation (claim 17, lines 9-10; claim 21, line 11). In both Finn and Mitton, an audio input signal is processed resulting in a different type of output. However, neither reference teaches the presentation of both the original audio input and the resulting output together in combination, as now recited by claims. For example, the Finn system does not output the whistling in tandem with the matched music file. Similarly, in the Mitton system, the original audio recording is not output in combination with the musical score generated therefrom. As such neither Finn nor Mitton are augmenting the audio signal. Conversely, the system disclosed in the subject application delivers one or more media fragments simultaneously with the original audio input signal in a combined augmented presentation thereof. Applicants respectfully assert that the combined teachings of Finn, Mitton and Nishimura further do not teach, disclose or suggest "outputting said media fragments *in tandem with said audio signal*" as previously recited in claims 1, 17 and 21.

In light of the foregoing amendment remarks, Applicant believe claims 1-22 are in allowable condition. A notice of allowance for this application is solicited earnestly. If after considering the above remarks and amendments, the Examiner is still not of the opinion that allowable subject matter is claimed, Applicants respectfully request a telephone interview with the Examiner and his/her respective Supervisory Patent Examiner to resolve any outstanding issues prior to issuance of any further office actions, or, if the Examiner has any further questions regarding this amendment, he is invited to call Applicants' attorney at the number listed below. The Examiner is hereby authorized to charge any fees or credit any balances under 37 CFR §1.17, and 1.16 to Deposit Account No. 03-2410 (Order No. 42551-107).

Respectfully submitted,

/Bruce D. Jobse/ Date: 2009-06-29

Bruce D. Jobse, Esq. Reg. No. 33,518
Burns & Levinson LLP
Customer Number 26486
Tel: (617) 345-3000 Fax: (617) 345-3299

J:\Docs\42551\00107\01365950.DOC